

Office of the Secretary of Defense

§ 112.6

by the Secretary of the Military Department concerned.

§ 112.4 Policy.

(a) Members of the Military Services are expected to pay their just financial obligations in a proper and timely manner. A Service member's failure to pay a just financial obligation may result in disciplinary action under the Uniform Code of Military Justice (10 U.S.C. 801-940) or a claim pursuant to Article 139 of the Uniform Code of Military Justice. Except as stated in this section, and in paragraphs (a)(1) and (a)(2) of this section, the DoD Components have no legal authority to require members to pay a private debt or to divert any part of their pay for satisfaction of a private debt.

(1) Legal process instituted in civil courts to enforce judgments against military personnel for the payment of alimony or child support shall be acted on pursuant to 42 U.S.C. 651-665, and Chapter 50, of Department of Defense Regulation 7000.14-R Volume 7A.¹

(2) Involuntary allotments under 5 U.S.C. 5520a(k) shall be established in accordance with this part.

(b) Whenever possible, indebtedness disputes should be resolved through amicable means. Claimants may contact military members by having correspondence forwarded through the military locator services for an appropriate fee.

§ 112.5 Processing of debt complaints.

(a) Debt complaints meeting the requirements of this part and procedures established by the Under Secretary of Defense for Personnel and Readiness, as required by § 112.7(a)(1) shall receive prompt processing assistance from commanders.

(b) Assistance in indebtedness matters shall not be extended to those creditors:

(1) Who have not made a bona fide effort to collect the debt directly from the military member;

(2) Whose claims are patently false and misleading; or

(3) Whose claims are obviously exorbitant.

(c) Some States have enacted laws prohibiting creditors from contacting a debtor's employer about indebtedness or communicating facts on indebtedness to an employer unless certain conditions are met. The conditions that must be met to remove this prohibition are generally such things as reduction of a debt to judgment or obtaining written permission of the debtor.

(1) At DoD installations in States having such laws, the processing of debt complaints shall not be extended to those creditors who are in violation of the State law. Commanders may advise creditors that this rule has been established because it is the general policy of the Military Services to comply with State law when that law does not infringe upon significant military interests.

(2) The rule in paragraph (c)(1) of this section shall govern even though a creditor is not licensed to do business in the State where the debtor is located. A similar practice shall be started in any State enacting a similar law regarding debt collection.

(3) Pursuant to 15 U.S.C. 1601 note and 1692-1692o ("Fair Debt Collection Practices Act"), contact by a debt collector with third parties, such as commanding officers, for aiding debt collection is prohibited without a court order or the debtor's prior consent given directly to the debt collector. Creditors are generally exempt from this requirement, but only when they collect on their own behalf.

§ 112.6 Processing of involuntary allotments.

Pursuant to 5 U.S.C. 5520a(k): (a) In those cases in which the indebtedness of a military member has been reduced to a judgment, an application for an involuntary allotment from the member's pay may be made under procedures prescribed by the Under Secretary of Defense (Comptroller). Such procedures shall provide the exclusive remedy available.

(b) An involuntary allotment from a member's pay shall not be permitted in any indebtedness case in which:

(1) Exigencies of military duty caused the absence of the member from

¹Copies may be obtained from the DoD Directives Web page at: <http://www.dtic.mil/whs/directives>.